

Exhibit C

Lynaugh, Maggie

From: Lynaugh, Maggie
Sent: Friday, March 27, 2020 9:51 PM
To: 'OTV/ExecAssistant@bop.gov'
Cc: Shechtman, Paul
Subject: Compassionate Release Application -- Morris Zukerman (Reg. No. 77702-054)
Attachments: 2020-03-27 Letter to Warden (FINAL).pdf

Please see the attached letter to the Warden.

Best,
Maggie Lynaugh

BRACEWELL

March 27, 2020

BY E-MAIL

James Petrucci, Warden
FCI Otisville
Two Mile Drive
Otisville, NY 10963

Re: Compassionate Release Petition for Morris Zukerman
(Reg. No. 77702-054)

Dear Warden Petrucci:

We write on behalf of our client, Morris Zukerman, to respectfully request that he be granted compassionate release pursuant to 18 U.S.C. § 3582(c)(1)(A)(i) in light of the COVID-19 pandemic. Mr. Zukerman will turn 76 in June of this year. He suffers from diabetes and hypertension and his health status is designated as “chronic” by the Bureau of Prisons (*See Exhibit A.*) As a result of both his age and medical status, should Mr. Zukerman become infected, he is particularly at risk of suffering a severe form of the disease or even death. We ask that you find that the risk COVID-19 poses to Mr. Zukerman’s health amounts to an “extraordinary and compelling” circumstance that warrants transferring Mr. Zukerman to supervised release with a special condition of home confinement for the duration of his sentence. As set forth in detail below, Mr. Zukerman already has served a substantial portion of his sentence.

As you are aware, COVID-19 is highly contagious and is spreading at a rapid rate. In New York state, nearly 45,000 individuals have tested positive for the virus, resulting in at least 519 deaths. According to the World Health Organization, the populations most at risk of suffering a severe form of the disease include “[o]lder people, and those with underlying medical problems like cardiovascular disease [and] diabetes.”¹ The CDC similarly has explained that individuals over the age of 65 and people of any age who have serious underlying medical conditions,

¹ Coronavirus, World Health Organization, Mar. 23, 2020, https://www.who.int/health-topics/coronavirus#tab=tab_1.

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including heart conditions and diabetes, are at higher risk for severe illness from COVID-19.² Recently released data supports this view. The CDC reports that approximately 80% of deaths from COVID-19 in the United States occur in individuals age 65 or older, and that the fatality rate for individuals aged 65 to 84 could be as high as 11 percent.³ Additionally, within a recently examined sample of COVID-19 patients in Italy, 73.8 percent of those who died from the disease suffered from hypertension; 33.9 percent suffered from diabetes.⁴

Although Mr. Zukerman is aware that the BOP has developed an emergency response plan to address an outbreak of the virus within its facilities, both he and his family remain highly concerned for his health in light of his age and underlying medical conditions, each of which individually -- let alone in combination -- makes him high risk for suffering a severe form of the illness. The CDC has recommended that high-risk individuals avoid crowds, keep space between themselves and others, and stay at home as much as possible to reduce their risk of exposure to the disease.⁵ As you know, within the prison environment, practicing such “social distancing” is nearly impossible. Indeed, during the COVID-19 outbreak in China, prisons became hotbeds of infection despite stringent control measures.⁶

Mr. Zukerman was sentenced on March 21, 2017 principally to 70 months’ imprisonment for obstruction and tax evasion. He self-surrendered to BOP on June 26, 2017. Accordingly, he has served 33 months of his sentence. Mr. Zukerman has been approved for early release under the First Step Act and his release date is set for May 16, 2021 (excluding good time credits). He has also been classified as having minimum risk of recidivism.

If released to home confinement, Mr. Zukerman would reside with his wife either at their residence at [REDACTED], or at their residence at [REDACTED], whichever the BOP deems preferable. Mrs. Zukerman

² People Who Are at Higher Risk for Severe Illness, Centers for Disease Control and Prevention, Mar. 22, 2020, <https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/people-at-higher-risk.html>.

³ Severe Outcomes Among Patients with Coronavirus Disease 2019 (COVID-19) – United States, February 12 – March 16, 2020, Centers for Disease Control and Prevention, Mar. 26, 2020, <https://www.cdc.gov/mmwr/volumes/69/wr/mm6912e2.htm>.

⁴ See Characteristics of COVID-19 Patients Dying in Italy, Report Based on Available Data on March 20, 2020, Istituto Superiore Di Sanita, https://www.epicentro.iss.it/coronavirus/bollettino/Report-COVID-2019_20_marzo_eng.pdf.

⁵ Get Ready for COVID-19, Centers for Disease Control and Prevention, <https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/get-ready.html>.

⁶ Zi Yang, “Cracks in the System: COVID-19 in Chinese Prisons,” The Diplomat, Mar. 9, 2020, <https://thediplomat.com/2020/03/cracks-in-the-system-covid-19-in-chinese-prisons/>.

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has been quarantining herself for two weeks and, as a result, is confident she has not been infected. In both New York City and Maine Mr. Zukerman would be able to limit his contacts and follow the guidance provided by the WHO and CDC to reduce his risk of infection. Additionally, the state of Maine remains one of the lowest risk locations in the country for COVID-19 infection. To date, only 168 cases have been reported, none of which is located in the county in which Mr. Zukerman would reside.⁷

It is also our understanding that the Attorney General recently directed BOP to transfer inmates to home confinement in appropriate cases to decrease the risk to their health.⁸ We submit that this is such an appropriate case. Mr. Zukerman's age and underlying health conditions create a substantial risk of serious complications should he contract COVID-19. Mr. Zukerman poses no danger to public safety, has been rated by the BOP as having minimal risk of recidivism, and has had a perfect disciplinary record while incarcerated. Additionally, Mr. Zukerman's re-entry plan will enable him to effectively "shelter in place," providing him far greater protection from infection than is available in the prison environment. Accordingly, we respectfully request that Mr. Zukerman be considered for transfer to home confinement.⁹

We very much appreciate your consideration of this application. If you require any additional information, please do not hesitate to reach out.

Sincerely,

/s/ Paul Shechtman

Paul Shechtman
Maggie Lynaugh

PS/ML:wr

⁷ We also note that Mr. Zukerman and his wife have adequate savings to provide for themselves financially; there is no concern that he would be unable to support himself or afford necessary medical care.

⁸ See Memorandum re: Prioritization of Home Confinement as Appropriate in Response to COVID-19 Pandemic, Mar. 26, 2020, <https://www.politico.com/f/?id=00000171-1826-d4a1-ad77-fda671420000>.

⁹ We have heard reports that there is now someone at Otisville suspected of having COVID-19. If you are reluctant to release Mr. Zukerman to home confinement for the duration of his sentence, we respectfully request you consider granting him a furlough until the pandemic has passed.

Exhibit A

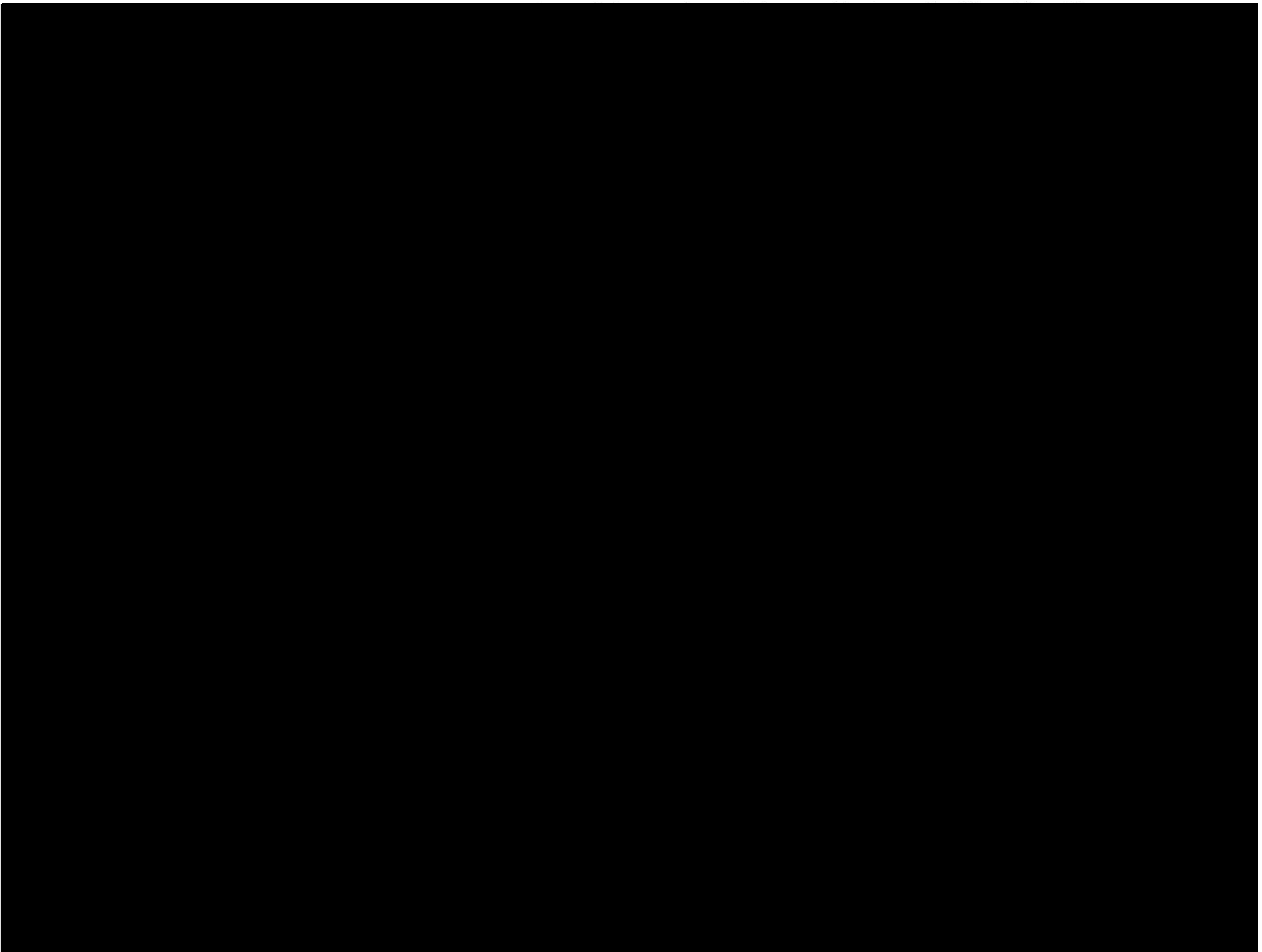
TIMOTHY C. DUTTA, M.D.
72ND STREET MEDICAL ASSOCIATES, P.C.
310 EAST 72ND STREET
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TEL: (212) 249-3725
FAX: (212) 249-4874

May 16, 2017


MORRIS ZUKERMAN



To whom it may concern,



Sincerely,


Timothy Dutta, MD

TIMOTHY C. DUTTA, M.D.
310 East 72nd Street
New York, NY 10021